IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 337 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NIRANJAN AMRATLAL SONI

Versus

VIJAY PARK CO.OP. HOUSING SOCIETY

Appearance:

1. Appeal from Order No. 337 of 2002

MR AN BHAGVAT for appellant.

MR MB GANDHI for Respondent No. 1-2

MRS TRUSHA M GANDHI for Respondent No. 1-2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 20/11/2002

ORAL JUDGEMENT

The present Appeal From Order is filed being aggrieved of the order passed below exhibits 47 & 48 dated 29.11.2000 whereby the Chamber Summons is rejected.

Exh.48 was filed with the prayer that Receiver be appointed and directions be given as prayed for in para 6 of exh.48 which read as under:

"(a) To take possession by removing any person in possession and to make a note if any damage is done to the property.

(b) To manage the property and to lease the same for a reasonable rent to a proper person to fetch income of the property pending suit and the appeal if any, thereafter.

(c) To report for directions of the Court, wherever necessary.

(d) To deposit all money in Court."

2. Exh.51 was filed replying the contentions raised in exh.48, wherein it is stated in para 3 that the suit property is purchased by one Parshottambhai Ranchhod Patel with possession on 31.3.1995 and that he is in possession of the property since then. It is further stated that one Bharatkumar is residing in the property as a tenant and that the plaintiff does not have any right in the suit property. The learned Judge taking into consideration the aforesaid averments and more particularly, the fact that despite having been disclosed to the plaintiff that the property is sold to said Shri Parshottambhai R. Patel in the year 1995, i.e. prior to filing of the suit (as the suit is filed in the year 19960, the plaintiff did not take any step to join said Shri Parshottambhai Patel or the tenant, Bharatkumar as party. The learned Judge deemed it fit not to grant relief as prayed for in exh.48 application.

3. When the matter is heard the learned advocate Mr.Bhagvat has pointed out the contents of the reply, exh.51. He submitted that the sale which is mentioned in para 3 of exh.51 is in violation of the provisions of section 37 of the Gujarat Cooperative Societies Act, 1961. He submitted that the society is an unregistered society, therefore, society could not have sold the property to said Shri Parshottambhai Ranchhodbhai Patel. The submissions of Mr.Bhagavat has no merits.

4. This Court finds no infirmity with the order passed by the learned Judge. Hence this Appeal From order is dismissed. No order as to costs.

(Ravi R. Tripathi, J.)

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